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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,613	05/14/2001	Peter G. Capek	YOR9-2001-0153US1 (728-20)	4824
28249	7590	08/25/2004	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			FISCETTI, JOSEPH A	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/854,613

Applicant(s)

CAPEK ET AL

Examiner

Joseph A. Fischetti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☒ This action is **FINAL**. qaf 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 26-30, 32-39, 53-55, 57-59 and 6162 is/are pending in the application.
- 4a) Of the above claim(s) 26-30, 32-39, 53-55, 57-59 and 6162 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-30, 32-39, 53-55, 57-59 and 6162 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 26-30,32-39,53-55,57-59,6162 are rejected under 35 U.S.C. 101 because there is no clear recitation of using a technological art, e.g. computerized system.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim<sup>5</sup>26-30,32-39,53-55,57-59,6162 are rejected under 35 U.S.C. 103(a) as being unpatentable over Expedia.com in view of DeLorme et al.

Expedia.com discloses providing one or more items (items are read as a bed to rest on, a bath to wash in etc,) for expected use by a user to one or more destinations (a) to which the user intends to travel the items being provided by a plurality of Suppliers (Hyatt, Sheraton Westin Hotels) able to deliver the items to the destination within a time frame set by the user (b). Expedia.com discloses describing in at least one database accessible via a network (www.expedia.com) each of the plurality of destinations (a) to which the user can travel, each of the plurality of participating suppliers at each of said

destinations (c), and items offered by said suppliers at each of said destinations (rooms are items offered by suppliers Westin, Hyatt etc.), selecting a destination, items, and a user's time frame (a,b,c): However, the Expedia .com web site does not disclose generating a result list . However official notice is taken with respect to the old and notorious use of consolidating results into a single document. Notwithstanding, DeLorme et al. disclose generating at least one list (col.70 lines 58-63) of said selected items picked from the plurality of items according to user's preferences said user's time frame, availability of said items, and ability of a supplier to deliver said items to said destination within said user's time frame: The recitation of "said suppliers providing said items to the destination within said user's time frame" is not given any patentable weight because it is contingent upon a contractual obligation and not on methodology.

It would be obvious to modify the Expedia.com page to use a list is obvious, the motivation being to have a consolidated list of all items at one glance. Whether services or items are being accounted for is not deemed material given that a methodology is being claimed here.

RE claim 27. DeLorme et al disclosed a database of points of interest which is personalized to the individual and thus is capable of including destination previously visited or inquired on.

RE claim 29. DeLorme et al disclose using a scuba outfitter and given that this is a custom planning system clothing size, a height, and a weight would be used, including colors.

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RE claim 32/33. DeLorme et al. disclose an Accounting Data substructure which determines a fee for providing said items .

RE claim 34. Hotels are rented.

RE claim 35. When TRIPS is prompted it generates a list or profile col. 70 lines 58-63)  
claims 36-39: see restaurant reservation feature allowing reservation to be made down to minute in advance.

Re claims 53-55, TRIPS is an on-line system.

RE claim 57-59 a hotel room is labeled in a reservation. The scuba gear embodiment is read as luggage that is packed for the user. The use of discounts is an old expedient in the art.

RE claim 62,6 1 the use of a change of plans made in advance is deemed an old expedient in the art.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to PRIMARY EXAMINER Joseph A. Fischetti at telephone number (703) 305-0731.

*Joseph A. Fischetti*  
Primary Examiner  
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